SINGLE BENCH

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH

WRIT PETITION NO. 3274 OF 2005

PETITIONERS : 1. Shyam Chandrakar S/o Topa Singh Chandrakar, aged about 54 years , occupation businessman , Proprietor Sharda Traders , Shri Ram Rice Mill, Gadadih (Durg) resident of Village Gadadih,Tahsil Patan, District Durg (CG).

Nepal Singh Chandrakar S/o Kulanjan Singh Chandrakar, aged about years, Firm Representative- Sharda Traders, Shri Ram Rice Mill, Gadadih (Durg) Village Gadadih, Tahsil Patan, District Durg (CG).

P.F. No. 3004/ab
Presented by Shri H.K. Sharma
dated 1/12/05

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VERSUS

RESPONDENTS : 1. The State of Chhattisgarh, through the Secretary, Department of Food & Civil Supplies ,Govt of Chhattisgarh, Mantralay, D.K.S. Building, Raipur (CG).

2. The Collector, (Food Branch), Durg, Tahsil and District Durg (CG).
3. The Food Controller, Durg, Tahsil and district Durg (CG).
4. The Sub Divisional Officer, (Revenue), Durg, Tahsil and District Durg (CG).

WRIT PETITION U/S 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

54

आदेश पत्रक

मामला क्रमांक W.P.3274/ सन् 2005

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	27-7-2005 Mrs. Renu Kochar, counsel for the petitioners. Mr. Sunil Otwani, Panel Lawyer for the Sate/respondents. Heard both the counsel on admission. The petitioners have preferred this writ petition under Article 226/227 of the Constitution of India, questioning the legality, propriety and correctness of order dated 10-4-2001 passed by the Food Controller, Durg; order dated 4-6-2002 passed by the Collector, Durg; and order dated 19-5-2005 passed by the Sessions Judge, Durg in Criminal Appeal No.234/2002. Learned counsel for the petitioners submits that petitioner No.1 moved application for renewal of the licence beyond December, 2000, however, no decision was taken by the respondent Collector and thereafter, after a long time his prayer was rejected, then petitioner No.1 again moved for grant of fresh licence on 24-4-2001 and necessary fees was also deposited. In the circumstances, when the papers for grant of licence were already pending, action of the respondents was not legal. Having heard learned counsel for the petitioner, I have perused the petition and relevant documents. Petitioner No.1 is the Proprietor of Sharda Traders, Village: Gadadih and he was the licence holder under the मध्यप्रदेश। अनुसूचित वस्तु व्यापारी (अनुज्ञापन तथा जमाखोरी पर निर्बन्धन) आदेश, 1991 (hereinafter referred to as 'the Order, 1991'), and the said licence was valid up to 31st December, 2000. Petitioner No.2 is the representative of petitioner No.1 firm. As petitioner No.1 did not moved the Collector for renewal of licence and he moved after the expiry of licence, therefore, his application for renewal of licence was rejected on 10.04.2001. However, the petitioner again moved for grant of fresh licence	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.3274/ **सन्** **2005**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

which remain pending till 24-12-2001 and ultimately the licence was granted on 24-12-2001 for a period of five years up to 31-12-2005. In the mean time, on 11-12-2001 the Sub Divisional Officer (Revenue) & Assistant Food Officer reached to the petitioners firm for inspection. On inspection number of irregularities were noticed, and it was found that there is clear violation of the Order, 1991, as a result of which after issuing notice to the petitioners and receipt of the reply, impugned order dated 4-6-2002 was passed by the Collector, Durg, in which it was held that the petitioners have violated the provisions of Krishi Upaj Mandi Adhiniyam, the Essential Commodities Act, 1955, and the Order, 1991. Ultimately, the food items i.e. 676.50 quintals of paddy, 412 quintals of rice, 143 quintals of broken rice which were found without licence were confiscated to the Government account. An appeal was preferred against the said order before the Sessions Judge, Durg, and the learned Sessions Judge, Durg, dismissed the appeal vide order dated 19-5-2005.

It is admitted position that the licence of the petitioner firm to deal in food grains expired on 30-1-2000 which was not renewed by the Collector on the ground that the application for renewal was filed delayed after expiry of licence and the said application was rejected on 10-4-2001. He again moved application for grant of licence on 24-4-2001 and the licence was granted on 24-12-2001. Therefore, from 1-1-2001 to 24-12-2001, the petitioner was dealing in food items without any licence and when on 11-12-2001 a search/ inspection was made at the premises of the petitioner firm, confiscated items were found for which petitioner No.2 could not give satisfactory explanation. Without filing appeal against the order of refusal to renew the licence, the petitioners moved an application for fresh licence on 24-4-2001.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.3274/ **सन्** **2005**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Clause 4 (1) of the Order, 1991, envisages that after filing application before the Licensing Officer, if within 30 days licence is not issued then the Licensing Officer has to pass reasoned order within 30 days that the person is not entitled for licence and will inform the party within 40 days. If the applicant did not receive the order within 40 days, then the applicant is required to send a reminder to the licensing authority and if after reminder within 30 days no intimation is received regarding rejection of the licence, then the licence will be considered to be accepted. No such notice was issued to the petitioners herein and ultimately, the licence was granted on 24-12-2001 with effect from 24-12-2001 to 31-12-2005. Therefore, from 1-1-2001 to 24-12-2001, for a period of about one year, the petitioner firm conducted business activities without any licence and during that period, search and inspection was conducted at the petitioners premises, and the petitioner firm was found dealing in the business of food grain items without any licence. In the circumstances, the matter was placed before the Collector, who in the first instance issued show cause notice to the petitioners and in turn, the petitioners filed reply, thereafter the impugned order was passed. Since the petitioner firm was found dealing in the business of food items without any licence, therefore, the confiscation order was passed by the Collector. In view of the above facts, I do not find any illegality and infirmity in the orders impugned for the reason that the petitioner firm was found dealing in the business of food items without any licence under the Order, 1991. Therefore, there is no substance in this writ petition. The Collector and the Sessions Judge have not committed any illegality or infirmity in passing the impugned orders.	

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.(S).274/ **सन्** **2005**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 4 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Soma	In the result, the writ petition is liable to be dismissed and it is accordingly, dismissed, at the admission stage itself. Consequently, M.(W.)P.No.2710/2005, I.A.Nos.6264/2005 and 6265/2005 stand disposed of. **Sd/-** **L.C. Bhadoo** **Judge**	

(पीछे देखिये)